IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 28618 of 2005(F)

AGAINST THE ORDER IN IA 1285 2005 IN OS.778/2001 of ADDL.M.C.,KOZHIKODE-II

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PETITIONER:

RAJI @ RAJESWARI,
REP. BY POWER OF ATTORNEY, K.T.PRASAD,
S/O. K.T. GOPALAN, RESIDING AT `POPE GARDEN',
NELLIKODE AMSOM DESOM, KOZHIKODE TALUK.

BY ADV. SRI.K.PRAVEEN KUMAR

RESPONDENTS:

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1. **SALEENA MATHEW, D/O. MATHAI,**
   THIRUVAMBADI AMSOM, DESOM, KOZHIKODE TALUK,
   REP. BY POWER OF ATTORNEY HOLDER, KANNAMPUZHA
   JONEY ANTONEY, MG.PARTNER THUSARAGIRI REAL ESTATE
   AND PROPERTY DEVELOPERS(PVT)LTD.,CHEROOTTY ROAD,
   RESIDING AT KEERTHI NAGAR,WEST HILL, KOZHIKODE.

2. **DR. HOROOL M.PILLAI,**
   S/O. DR.N.M.PAREED PILLAI, BRICK COTTAGE,
   EDAKKAD AMSOM, CHEEKKUTHAZHA DESOM,KANNUR TALUK,
   KANNUR DISTRICT, WORKING AT BABY MEMORIAL HOSPITAL
   PUTHIYARA, KOZHIKODE-4.

BY ADV. SRI.P.VIJAYA BHANU for R2
SRI.P.M.RAFIQ
SRI.C.P.MOHAMMED NIAS for R1

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.28618/2005 F

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE SUIT FILED BY THE PLAINTIFF AS OS.NO.778/01 ON THE FILE OF THE MUNSIFF COURT, KOZHIKODE DTD. 4/10/01.**

EXT.P2: **COPY OF THE WRITTEN STATEMENT FILED BY 2ND DEFENDANT DTD. 8/01/03.**

EXT.P3: **COPY OF THE COMMISSION REPORT DTD. 7/03/05.**

EXT.P3(A): **COPY OF THE PLAN SUBMITTED BY COMMISSIONER.**

EXT.P4: **COPY OF THE I.A.1285/05 IN O.S.778/01 FILED BY THE PETITIONER TO SET ASIDE THE COMMISSION REPORT AND APPOINT AN EXPERT COMMISSIONER DTD. 31/03/05.**

EXT.P5: **COPY OF THE I.A.2191/05 FILED BY THE PETITIONER FOR SEEKING PERMISSION TO EXAMINE THE COMMISSIONER AS COURT WITNESS DTD. 7/07/05.**

EXT.P6; **COPY OF THE ORDER IN I.A.1285/05 IN O.S.778/01 OF THE ADDL. MUNSIFF II KOZHIKODE DTD.11/08/05.**

EXT.P7: **COPY OF ORDER IN I.A.2191/05 IN O.S.778/01 OF THE ADDL. MUNSIFF II KOZHIKODE DTD. 11/08/05.**

/TRUE COPY/

KSS

PIUS C. KURIAKOSE, J.

W.P.(C) No. 28618 OF 2005

Dated this the 18th day of June, 2007

JUDGMENT

There is no representation for the petitioner. But having regard to the submissions addressed before me by Sri.Mohammed Niyas, learned counsel for the 1st respondent, Smt.Chandrika, counsel for the 2nd respondent and having gone through Exts.P6 and P7, I am of the view that there is no need of interfering with those impugned orders under the visitorial jurisdiction of this Court under Article 227. In fact the learned Munsiff has taken the correct view while passing Exts.P6 and P7. It is open to the petitioner to cross examine the commissioner and to adduce other evidence against the commissioner's report and the findings thereto. Subject to the above observation, this Writ Petition will stand dismissed confirming Exts.P6 and P7.

PIUS C. KURIAKOSE, JUDGE

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